

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 03-02V

Filed: July 25, 2008

Not To Be Published

KENNETH W. GOSS,
Parent of
KENDALL L. GOSS, a Minor

Petitioner(s),

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES

Respondent.

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Kenneth W. Goss, Florence, SC, pro se petitioner.

Voris Edward Johnson, United States Department of Justice, Washington, DC, for respondent.

DECISION¹

In accordance with Vaccine Rule 3(c), this case is hereby **transferred** to the undersigned.

The above-named petitioners filed a Short-Form Autism Petition For Vaccine Compensation on January 2, 2003. A telephonic status conference was conducted between the

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

parties and the undersigned on July 22, 2008 pursuant to *pro se* petitioner, Kenneth W. Goss' request. Petitioner, requested the undersigned dismiss the above-captioned claim, explaining he had previously consulted with attorney who advised the above-captioned petition was not filed within "36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury" as required by the Vaccine Act. 42 U.S.C. § 300aa-16(a)(2). The undersigned discussed with petitioner his options available in either pursuing or terminating the above-captioned claim. Petitioner stated he understood that the case was not timely filed and any further proceedings would waste everyone's time since the case would ultimately be dismissed as untimely. Thus petitioner declined further prosecution of the above-captioned claim and requested that the undersigned issue a dismissal decision.

Accordingly, petitioner's request to have the case dismissed is **GRANTED**. The undersigned finds that petitioner's claim must be dismissed as petitioner has not proven by a preponderance of the evidence that the petition was filed within "36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury" as required by the Vaccine Act. Petitioner's claim is dismissed. The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

² As discussed at the telephonic status conference on July 22, 2008 petitioner may after judgment has entered elect to either accept the Court's judgment or to file a civil action. 42 U.S.C. § 300aa-21(a).